

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

Civil Action No. 04-12253-MLW

STEVEN McDERMOTT and  
STACEY McDERMOTT,

Plaintiffs

v.

FEDEX GROUND PACKAGE SYSTEMS, INC.,  
T.S. PRUITT, ALLEGIANCE HEALTHCARE,  
INC., D. PONCE, E.W. WYLIE CORPORATION,  
D.W. SMITH ARSENBERGER TRUCKING, INC.,  
J.T. FOSBRINK, RYDER TRUCK RENTAL,  
LORRAINE ODZANA as ADMINISTRATRIX OF  
THE ESTATE OF JAMES J. ODZANA,  
SHORELINE TRANSPORTATION, INC., JACYLYN  
PALETTA as ADMINISTRATRIX OF THE  
ESTATE OF MARIO J. CASTRO,

Defendants

**LORRAINE ODZANA AS ADMINISTRATRIX OF THE ESTATE OF  
JAMES J. ODZANA'S ANSWER TO CROSS-CLAIM OF T.S. PRUITT**

**ANSWER TO T.S. PRUITT'S CROSS CLAIMS**

**COUNT I**

**Contribution – D. Ponce**

1. The allegations contained in paragraph 1 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

2. The allegations contained in paragraph 2 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

**COUNT II**

**Contribution – D.W. Smith**

3. The allegations contained in paragraph 3 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

4. The allegations contained in paragraph 4 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT III  
**Contribution – J.T. Fosbrink**

5. The allegations contained in paragraph 5 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

6. The allegations contained in paragraph 6 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT IV  
**Contribution – Lorraine Odzana, Administratrix of the Estate of James J. Odzana**

7. Defendant Odzana denies the allegations contained in paragraph 7 of T.S. Pruitt's Cross Claims

8. Defendant Odzana denies the allegations contained in paragraph 8 of T.S. Pruitt's Cross Claims.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter judgment of dismissal, and award her costs and attorney fees, and for other relief as this court may deem just and equitable.

COUNT V  
**Contribution – Jaclyn Paletta, Administratrix of the Estate of Mario J. Castro**

9. The allegations contained in paragraph 9 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

10. The allegations contained in paragraph 10 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT VI

**Contribution – Allegiance Healthcare**

11. The allegations contained in paragraph 11 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

12. The allegations contained in paragraph 12 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT VII

**Contribution – E.W. Wylie Corporation**

13. The allegations contained in paragraph 13 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

14. The allegations contained in paragraph 14 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT VIII

**Contribution – Ryder Truck Rental**

15. The allegations contained in paragraph 15 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

16. The allegations contained in paragraph 16 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT IX

**Contribution – Shoreline Transportation, Inc.**

17. The allegations contained in paragraph 17 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

18. The allegations contained in paragraph 18 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT X  
**Contribution – Arsenberger Trucking, Inc.**

19. The allegations contained in paragraph 19 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

20. The allegations contained in paragraph 20 of T.S. Pruitt's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

**AFFIRMATIVE DEFENSES**

1. The complaint fails to state a cause of action against the answering defendant.
2. Plaintiffs are barred from recovery because the action has not been brought within the applicable statute of limitations.
3. Some or all of the damages for which relief is sought herein may be barred in whole or in part by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Laws.
4. If the plaintiffs suffered the injuries and damages alleged, which is denied, those damages were caused in whole or in part by the actions or inactions of third parties over whom the answering defendant had no control and for whose conduct defendant is not responsible.
5. If plaintiff and/or cross-claim plaintiff is entitled to recover against the defendant-in-crossclaim, then any such recovery must be reduced or is barred in accordance with the comparative negligence statute, since the negligence of the plaintiff and/or cross-claim plaintiff was the proximate cause of the injuries allegedly sustained.
6. This Court lacks personal jurisdiction over the answering defendant.

THE DEFENDANT DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.

Dated: June 13, 2007

Respectfully submitted,

The Defendant,  
LORRAINE ODZANA, as Administratrix of the  
Estate of JAMES J. ODZANA  
By her attorneys,

s/ Michele Carlucci  
Maynard M. Kirpalani, BBO #273940  
Michele Carlucci, BBO #655211  
WILSON ELSEER MOSKOWITZ EDELMAN &  
DICKER LLP  
155 Federal Street  
Boston, MA 02110  
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**CERTIFICATE OF SERVICE**

I, Michele Carlucci, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the NEF on June 13, 2007.

/s/ Michele Carlucci